



General Assembly

February Session, 2004

Amendment

LCO No. 3714

HB0535503714HD0

Offered by:

REP. ABRAMS, 83rd Dist.

To: Subst. House Bill No. 5355

File No. 292

Cal. No. 210

"AN ACT CONCERNING THE MEDICAL USE OF MARIJUANA."

1 Strike everything after the enacting clause and substitute the
2 following in lieu thereof:

3 "Section 1. Section 21a-267 of the general statutes is repealed and the
4 following is substituted in lieu thereof (*Effective October 1, 2004*):

5 (a) No person shall use or possess with intent to use drug
6 paraphernalia, as defined in subdivision (20) of section 21a-240, as
7 amended, to plant, propagate, cultivate, grow, harvest, manufacture,
8 compound, convert, produce, process, prepare, test, analyze, pack,
9 repack, store, contain or conceal, or to inject, ingest, inhale or otherwise
10 introduce into the human body, any controlled substance, as defined in
11 subdivision (9) of section 21a-240, as amended. [Any] Except as
12 provided in subsection (d) of this section, any person who violates any
13 provision of this subsection shall be guilty of a class C misdemeanor.

14 (b) No person shall deliver, possess with intent to deliver or
15 manufacture with intent to deliver drug paraphernalia knowing, or

16 under circumstances where one reasonably should know, that it will
17 be used to plant, propagate, cultivate, grow, harvest, manufacture,
18 compound, convert, produce, process, prepare, test, analyze, pack,
19 repack, store, contain or conceal, or to inject, ingest, inhale or otherwise
20 introduce into the human body, any controlled substance. Any person
21 who violates any provision of this subsection shall be guilty of a class
22 A misdemeanor.

23 (c) [Any] Except as provided in subsection (d) of this section, any
24 person who violates subsection (a) or (b) of this section in or on, or
25 within one thousand five hundred feet of, the real property comprising
26 a public or private elementary or secondary school and who is not
27 enrolled as a student in such school shall be imprisoned for a term of
28 one year, which shall not be suspended and shall be in addition and
29 consecutive to any term of imprisonment imposed for violation of
30 subsection (a) or (b) of this section.

31 (d) In any prosecution under subsection (a) of this section for using
32 or possessing drug paraphernalia related to marijuana, the defendant
33 may introduce and the court shall consider as a mitigating factor any
34 evidence of medical necessity. If the court finds that the defendant
35 used or possessed drug paraphernalia related to marijuana because of
36 medical necessity, upon conviction of a violation of subsection (a) of
37 this section, the court may impose a fine not to exceed one hundred
38 dollars.

39 Sec. 2. Section 21a-279 of the general statutes is repealed and the
40 following is substituted in lieu thereof (*Effective October 1, 2004*):

41 (a) Any person who possesses or has under his control any quantity
42 of any narcotic substance, except as authorized in this chapter, for a
43 first offense, may be imprisoned not more than seven years or be fined
44 not more than fifty thousand dollars, or be both fined and imprisoned;
45 and for a second offense, may be imprisoned not more than fifteen
46 years or be fined not more than one hundred thousand dollars, or be
47 both fined and imprisoned; and for any subsequent offense, may be

48 imprisoned not more than twenty-five years or be fined not more than
49 two hundred fifty thousand dollars, or be both fined and imprisoned.

50 (b) [Any] Except as provided in subsection (g) of this section, any
51 person who possesses or has under his control any quantity of a
52 hallucinogenic substance other than marijuana or four ounces or more
53 of a cannabis-type substance, except as authorized in this chapter, for a
54 first offense, may be imprisoned not more than five years or be fined
55 not more than two thousand dollars, or be both fined and imprisoned;
56 [.] and for a subsequent offense may be imprisoned not more than ten
57 years or be fined not more than five thousand dollars, or be both fined
58 and imprisoned.

59 (c) [Any] Except as provided in subsection (g) of this section, any
60 person who possesses or has under his control any quantity of any
61 controlled substance other than a narcotic substance, or a
62 hallucinogenic substance other than marijuana or who possesses or has
63 under his control less than four ounces of a cannabis-type substance,
64 except as authorized in this chapter, for a first offense, may be fined
65 not more than one thousand dollars or be imprisoned not more than
66 one year, or be both fined and imprisoned; and for a subsequent
67 offense, may be fined not more than three thousand dollars or be
68 imprisoned not more than five years, or be both fined and imprisoned.

69 (d) [Any] Except as provided in subsection (g) of this section, any
70 person who violates subsection (a), (b) or (c) of this section in or on, or
71 within one thousand five hundred feet of, the real property comprising
72 a public or private elementary or secondary school and who is not
73 enrolled as a student in such school or a licensed child day care center,
74 as defined in section 19a-77, as amended, that is identified as a child
75 day care center by a sign posted in a conspicuous place shall be
76 imprisoned for a term of two years, which shall not be suspended and
77 shall be in addition and consecutive to any term of imprisonment
78 imposed for violation of subsection (a), (b) or (c) of this section.

79 (e) [As] Except as provided in subsection (g) of this section, as an

80 alternative to the sentences specified in subsections (a) and (b) of this
81 section and specified for a subsequent offense under subsection (c) of
82 this section, the court may sentence the person to the custody of the
83 Commissioner of Correction for an indeterminate term not to exceed
84 three years or the maximum term specified for the offense, whichever
85 is the lesser, and at any time within such indeterminate term and
86 without regard to any other provision of law regarding minimum term
87 of confinement, the Commissioner of Correction may release the
88 convicted person so sentenced subject to such conditions as he may
89 impose including, but not limited to, supervision by suitable authority.
90 At any time during such indeterminate term, the Commissioner of
91 Correction may revoke any such conditional release in his discretion
92 for violation of the conditions imposed and return the convicted
93 person to a correctional institution.

94 (f) To the extent that it is possible, medical treatment rather than
95 criminal sanctions shall be afforded individuals who breathe, inhale,
96 sniff or drink the volatile substances defined in subdivision (49) of
97 section 21a-240, as amended.

98 (g) In any prosecution under subsection (b) or (c) of this section for
99 possessing or having control of marijuana, the defendant may
100 introduce and the court shall consider as a mitigating factor any
101 evidence of medical necessity. If the court finds that the defendant
102 possessed or had control of marijuana because of medical necessity,
103 upon conviction of a violation of subsection (b) or (c) of this section,
104 the court may impose a fine not to exceed one hundred dollars."

This act shall take effect as follows:	
Section 1	October 1, 2004
Sec. 2	October 1, 2004